

OUTTEN & GOLDEN LLP

Justin M. Swartz
Jennifer L. Liu
3 Park Avenue, 29th Floor
New York, New York 10016
Telephone: (212) 245-1000

SHAVITZ LAW GROUP, P.A.

Gregg I. Shavitz (admitted *pro hac vice*)
Susan H. Stern (admitted *pro hac vice*)
1515 S. Federal Highway, Suite 404
Boca Raton, Florida 33432
Telephone: (561) 447-8888

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ERIC BECKMAN, STEVE BUNCH, JERI
GRIFFIN, IVANA HARRINGTON, JACK
LEIVA, TERI PARKE, THOMAS WALKER,
PETE WISEMAN, RENEE BRAUN,
ELIZABETH SCOTT, VERONICA
MORGAN, and THERESA FORREST,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

KEYBANK, N.A.,

Defendant.

No. 12 Civ. 7836 (RWS) (RLE)

**NOTICE OF MOTION FOR PRELIMINARY APPROVAL OF CLASS
SETTLEMENT, PROVISIONAL CERTIFICATION OF THE SETTLEMENT
CLASS, APPOINTMENT OF PLAINTIFFS' COUNSEL AS CLASS COUNSEL,
AND APPROVAL OF PLAINTIFFS' PROPOSED NOTICES OF SETTLEMENT**

For the reasons set forth in the Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Approval of the Settlement, Conditional Certification of the Settlement Class, Appointment of Plaintiffs' Counsel as Class Counsel, and Approval of the Proposed Notices of Settlement and Class Action Settlement Procedure ("Motion for Preliminary Approval") and in the Declaration of Justin M. Swartz in Support of

Plaintiffs' Motion for Preliminary Approval ("Swartz Declaration"), Plaintiffs respectfully request that the Court enter an Order:

- (1) granting preliminary approval of the Joint Settlement and Release ("Settlement Agreement"), attached as Exhibit B to the Swartz Declaration;
- (2) conditionally certifying the following settlement subclasses under Fed. R. Civ. P. 23(a) and (b)(3) for purposes of effectuating the settlement:

- a. New York Sub-Class: The "New York Sub-Class" consists of all individuals who were employed as RMs in the State of New York from June 13, 2006 to the date of the Preliminary Approval Order; and
- b. Ohio Sub-Class: The "Ohio Sub-Class" consists of all individuals who were employed as RMs in the State of Ohio from June 13, 2009 to the date of the Preliminary Approval Order; and
- c. Colorado Sub-Class: The "Colorado Sub-Class" consists of all individuals who were employed as RMs in the State of Colorado from June 13, 2009 to the date of the Preliminary Approval Order; and
- d. Washington Sub-Class: The "Washington Sub-Class" consists of all individuals who were employed as RMs in the State of Washington from June 13, 2009 to the date of the Preliminary Approval Order; and
- e. Oregon Sub-Class: The "Oregon Sub-Class" consists of all individuals who were employed as RMs in the State of Oregon from June 13, 2009 to the date of the Preliminary Approval Order; and
- f. Maine Sub-Class: The "Maine Sub-Class" consists of all individuals who were employed as RMs in the State of Maine from June 13, 2009 to the date of the Preliminary Approval Order.

- (3) appointing Outten & Golden LLP and the Shavitz Law Group, P.A. as Class Counsel;

- (4) approving the Proposed Notice of Proposed Settlement of Class Action Lawsuit and Fairness Hearing, attached as Exhibit C to the Swartz Declaration; and the

Proposed Notice of Proposed Settlement of Collective Action Lawsuit and Fairness

Hearing, attached as Exhibit D to the Swartz Declaration; and directing their distribution;

(5) approving the Parties' proposed schedule for final settlement approval;
and

(6) granting such other, further, or different relief as the Court deems just and proper.

* * *

Plaintiffs have contemporaneously submitted a Proposed Order, attached hereto as **Exhibit A**, for the Court's convenience.

Dated: November 7, 2012
New York, New York

Respectfully submitted,
OUTTEN & GOLDEN LLP
By:

/s/ Justin M. Swartz
Justin M. Swartz
OUTTEN & GOLDEN LLP
Justin M. Swartz
Jennifer L. Liu
3 Park Avenue, 29th Floor
New York, New York 10016
Telephone: (212) 245-1000
Facsimile: (212) 977-4005

SHAVITZ LAW GROUP, P.A.
Gregg I. Shavitz (admitted *pro hac vice*)
Susan H. Stern (admitted *pro hac vice*)
1515 S. Federal Highway, Suite 404
Boca Raton, Florida 33432
Telephone: (561) 447-8888
Facsimile: (561) 447-8831

**Attorneys for Plaintiffs and the Putative
Class and Collective**